

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

RICHARD GONZALES,

Plaintiff,

vs.

Civ. No. 97-984 HB/LCS

CITY OF LAS CRUCES,

Defendant.

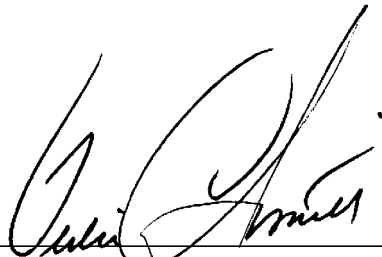
MAGISTRATE JUDGE'S PROPOSED FINDINGS
AND RECOMMENDED DISPOSITION

Proposed Findings

This matter comes before the Court upon Plaintiff's Motion and Memorandum Pursuant to Rule 56(f) of the Federal Rules of Civil Procedure, filed April 15, 1998. In his motion, the Plaintiff requests that the Court allow him to obtain and file an affidavit by Jerry Acosta. Fed. R. Civ. P. 56(f) requires that the party requesting a continuance to allow affidavits to be obtained must provide the Court with his or her own affidavit containing the reasons for such a continuance. The Plaintiff has not provided that affidavit to the Court. Moreover, the Court notes that the discovery has long since passed. The Plaintiff fails to explain to the Court's satisfaction why he could not have obtained Mr. Acosta's affidavit or deposition sooner. For these reasons, I find that the Plaintiff's Motion and Memorandum Pursuant to Rule 56(f) of the Federal Rules of Civil Procedure is not well taken and should be denied.

Recommended Disposition

I recommend denying the Plaintiff's Motion and Memorandum Pursuant to Rule 56(f) of the Federal Rules of Civil Procedure. Timely objections to the foregoing may be made pursuant to 28 U.S.C. §636(b)(1)(C). Within ten days after a party is served with a copy of these proposed findings and recommendations that party may, pursuant to §636(b)(1)(C), file written objections to such proposed findings and recommendations. A party must file any objections within the ten day period allowed if that party wants to have appellate review of the proposed findings and recommendations. If no objections are filed, no appellate review will be allowed.

A handwritten signature in black ink, appearing to read 'Leslie C. Smith', is written over a horizontal line.

Leslie C. Smith
UNITED STATES MAGISTRATE JUDGE